Law Enforcement Digest

May 2002

HONOR ROLL

542nd Session, Basic Law Enforcement Academy – November 14th, 2001 through March 29, 2002

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MUNICIPAL RESEARCH COUNCIL, BAR ASSOCIATION AND CODE REVISER COMBINE FORCES TO SET UP WEBSITE ALLOWING FREE PUBLIC ACCESS TO WASHINGTON APPELLATE COURT DECISIONS AND OTHER MATERIALS

In a combined effort, the Municipal Research Council, the Washington State Bar Association, and the Washington Code Reviser have set up a useful new website allowing the general public to gain free access to most Washington appellate court decisions, as well as other materials. The address of the new website is:

http://legalwa.org/

This valuable new site contains Washington State Supreme Court opinions from 1939 to the present and published Washington Court of Appeals opinions from 1969 to the present. It also includes links to the full text of the RCW, WAC, and 70 Washington city and county municipal codes.

The site has been described as being designed for ease of use, with the full text of court decisions searchable by keyword, and navigation around the site being simple and straightforward. The site also contains useful links to other legal resources. It will be updated weekly.

A link to this site has been added to the **LED** page on the Criminal Justice Training Commission website at

http://www.cjtc.state.wa.us/CJTC/led/ledpage.html

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2002 LEGISLATIVE UPDATE -- PART ONE

LED Introductory Editorial Notes: This is Part One of what we expect to be either a two-part or three-part update of 2002 Washington legislative enactments of interest to law enforcement. We have tried to include in Part One the enactments which have already gone into effect. Note that, unless a different effective date is specified in the legislation, enactments adopted during the 2002 regular session take effect on June 13, 2002, i.e., 90 days after the end of the session.

Thank you to Tom McBride and Pam Loginsky of the Washington Association of Prosecuting Attorneys and to Senior Deputy Prosecutor Rich Melnick of the Clark County Prosecuting Attorney's Office for providing us with helpful information.

Consistent with our past practice, our legislative updates will for the most part not digest legislation in the subject areas of sentencing, consumer protection, retirement, collective bargaining, civil service, tax, budget, and worker benefits. Part Two next month will include a cumulative index of enactments covered in the first two parts, as well as legislation not covered in Part One. If there is a Part Three, it would cover any legislation not covered in Parts One and Two, and/or revisit select enactments previously digested. The text of the 2002 legislation is available on the Internet, chapter by chapter, at [http://www.leg.wa.gov/pub/billinfo/2001-02/chapter_to_bill_table.htm]

We will incorporate some RCW references in our entries, but where new sections or chapters are created by the legislation, the State Code Reviser must assign the appropriate code numbers. Codification will likely not be completed until early fall of this year.

We remind our readers that any legal interpretations that we express in the LED are the views of the editors and do not necessarily reflect the views of the Attorney General's Office or of the Criminal Justice Training Commission.

LIMITING JUDICIAL RELIEF FROM DUTY TO REGISTER AS SEX OFFENDER
CHAPTER 25 (SB 6341) Effective Date: March 12, 2002

Amends RCW 9A.44.140 to preclude judicial relief from the duty to register where the offender has convictions for certain specified offenses.

REQUIRING REGISTRATION BY NON-FELON SEX OFFENDERS
CHAPTER 31 (SB 6408) Effective Date: March 12, 2002

Amends RCW 9A.44.130 to clarify that persons convicted at any time of "communication with a minor for immoral purposes" under RCW 9.68A.090 are required to register as sex offenders.

CLARIFYING IN DEFINITION OF "PROPERTY OF ANOTHER" THAT "MALICIOUS MISCHIEF" EXTENDS TO DESTRUCTION OF COMMUNITY PROPERTY
CHAPTER 32 (SSB 6422) Effective Date: March 12, 2002

Amends RCW 9A.48.010 by adding a definition of "property of another," reading as follows:

> (c) "Property of another" means property in which the actor possesses anything less than exclusive ownership.

This change resolves conflicting appellate court interpretations of the malicious mischief statute, as discussed in State v. Coria, 105 Wn. App 51 (Div. II, 2001) **May 01 LED:23**. Division Two of the Washington Court of Appeals ruled in Coria that Washington's malicious mischief statutes do not apply to destruction of community property. The legislative change reverses the judicial interpretation in Coria for acts committed on or after March 12, 2002. Coria remains on review in the Washington Supreme Court; a decision in Coria will apply only to acts committed before March 12, 2002. For any destruction of property on or after March 12, 2002, the malicious mischief statute applies to destruction of all property that is not exclusively owned by the actor.

REVISING CRIMINAL DRUG STATUTES RELATING TO THEFT, STORAGE OF "ANHYDROUS AMMONIA"
CHAPTER 133 (ESB 6232) Effective Date: March 26, 2002

Amends several sections in chapter 69.55 RCW. References to "anhydrous ammonia" in provisions addressing theft and unlawful storage of that substance are changed to "pressurized ammonia gas" and "pressurized gas solution." Also amends RCW 69.55.020 to provide that solid waste haulers who unknowingly transport pressurized ammonia gas in the normal course of business are not guilty of the offense.

PLUGGING A LOOPHOLE IN RCW 69.50.440 REGARDING EPHEDRINE, PSEUDOEPHEDRINE, AND AMMONIA RELATED TO METH MANUFACTURING
CHAPTER 134 (SSB 6233) Effective Date: March 26, 2002

Amends RCW 69.50.440 by revising its first sentence in the following manner (underlining indicates new language while strikeouts indicate deletions):

> It is unlawful for any person to possess ephedrine or any of its salts or isomers, pseudoephedrine or any of its salts or isomers, ~~or anhydrous~~ pressurized ammonia gas, or pressurized ammonia gas solution with intent to manufacture methamphetamine.

This change responds to and plugs a loophole addressed in the decision of Division Two of the Court of Appeals in State v. Halsten, 108 Wn. App. 759 (Div. II, 2001) **Dec 01 LED:19.**

This act also amends RCW 26.44.200 by adding similar language to that provision requiring notice by law enforcement to CPS in certain investigation circumstances where children are found at the site of an investigation of methamphetamine manufacturing.

DEVELOPING SCHOOL SAFETY PLANS AND PREVENTING PUBLIC ACCESS TO RECORDS, THE DISCLOSURE OF WHICH COULD COMPROMISE SCHOOL SAFETY
CHAPTER 205 (SSB 5543) Effective Date: Various

The Superintendent of Public Instruction is required to develop model safety plans for K-12 schools and to establish timelines for school districts to develop safety plans. Also adds an exemption to the Public Disclosure Act, RCW 42.17.310(1), effective March 27, 2002, exempting as follows:

> (aaa) Information compiled by school districts or schools in the development of their comprehensive safe school plans pursuant to section 2 of this act, to the extent that they identify specific vulnerabilities of school districts and each individual school.

MAKING IT A CLASS B FELONY TO EXPOSE A DEPENDENT CHILD OR DEPENDENT ADULT TO METH MANUFACTURING
CHAPTER 229 (SHB 2610) Effective Date: March 28, 2002

Adds a new section to chapter 9A.42 RCW, reading as follows:

> A person is guilty of the crime of endangerment with a controlled substance if the person knowingly or intentionally permits a dependent child or dependent adult to be exposed to, ingest, inhale, or have contact with methamphetamine or ephedrine, pseudoephedrine, or anhydrous ammonia, that are being used in the manufacture of methamphetamine. Endangerment with a controlled substance is a class B felony.

EXEMPTING FROM CRIMINAL LIABILITY PARENT WHO ABANDONS NEWBORN INFANT TO CUSTODY OF A QUALIFIED PERSON
CHAPTER 331 (ESSB 5236) Effective Date: April 3, 2002

Adds a new section to chapter 13.34 RCW, providing that "[a] parent of a newborn who transfers the *newborn* to a *qualified person* at an *appropriate location* is not subject to criminal liability under RCW 9A.42.060, 9A.42.070, 9A.42.080, 26.20.030, or 26.20.035." (Italics added). Definitions of the above italicized terms are provided in this same section, along with requirements that the qualified person: 1) attempt to protect the parent's anonymity, and 2) notify CPS.

Other sections of the act amend RCW 9A.42.060 - 080 and RCW 26.20.030 - 035 to reflect the exemption from criminal liability noted above. The final section of the act directs DSHS to convene a task force to recommend methods for implementing the act.

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WASHINGTON STATE SUPREME COURT

ESCAPEE WHO WAS GUEST AT APARTMENT LOSES CHALLENGE TO 1) POLICE ENTRY TO ARREST HIM ON WARRANT AND 2) POLICE SEARCH OF APARTMENT'S COMMON AREAS, WHERE ENTRY AND SEARCH BOTH WERE BASED ON HOSTS' CONSENT

State v. Thang, 41 P.3d 1159 (2002)

Facts and Proceedings below: (Excerpted from Court of Appeals opinion)

> In August 1997, Vy Thang and Simeon Terry, residents of the Maple Lane juvenile facility, escaped while on a field trip to a Seattle Seahawks game. They traveled to Spokane, where they stayed with various friends of Terry, eventually spending a few days with Jess Dietzen and Sean Lambert. Arrest warrants for the escape naming Thang and Terry were outstanding.
>
> On September 2, 1997, John Klaus found his 85-year-old mother, Mildred, in Spokane lying dead on the floor of her home in a pool of blood. She had died from blunt impact injuries. The house was in disarray and it appeared that some of her personal possessions were missing. Her purse was later found on the roof of a neighboring building. Shortly afterwards, the police learned that possible escapees were residing at the Dietzen apartment. Warrants for the arrest of Thang and Terry were outstanding.
>
> The police went to the Dietzen apartment, without warrants in hand, and arrested Terry and Thang.
>
> They suspected Terry and Thang may have been involved in the Klaus murder, but did not have sufficient probable cause for a warrant. Terry and Thang had been guests in Dietzen's apartment for several days. Upon arrival, the officers asked Dietzen for permission to enter the apartment to arrest Terry and Thang. Dietzen consented, and Thang and Terry were arrested in the living room. After the arrest, the police secured written permission from both tenants of the apartment for a search of the common areas. The police found women's jewelry in the bathroom garbage can and various items of women's clothing in a rollerblade bag in the hallway. The garbage can also contained a bloodied pair of socks. In preparation for transport, Thang identified his shoes, and later the police took possession of them. The DNA (deoxyribonucleic acid) from a blood spot on one of the tennis shoes and the bloodstains on a sock matched that of Mildred Klaus.

ISSUE AND RULING: 1) Does State v. Ferrier's special advice-of-rights rule for requesting consent in knock-and-talk circumstances apply to a request to hosts to enter their residence to arrest a guest on an arrest warrant? (ANSWER: No, this is not "knock-and-talk," and the consent here was voluntary under the totality of the circumstances); 2) Does Washington follow the "escapee rule" adopted in some other jurisdictions, whereunder an escapee has no more privacy protection when at large than he would have in his jail or prison cell? (ANSWER: The Court declines to answer this question); 3) Was the hosts' consent sufficient to allow officers to enter the apartment to arrest the guest on an arrest warrant and to search common areas in the apartment? (ANSWER: Yes)

Result: Reversal (on evidence-law grounds not addressed here) of Court of Appeals decision that had affirmed Spokane County Superior Court conviction of Vy Thang for aggravated first degree murder; case remanded for re-trial.

ANALYSIS:

1) Ferrier Consent-search Rule Does Not Apply

The Thang Court begins its analysis of the consent-search issue by ruling that this request to enter a third party's residence to make an arrest on an arrest warrant was not a "knock-and-talk" circumstance, and therefore was not subject to the special rules for consent requests under State v. Ferrier, 136 Wn.2d 103 (1998) **October 98 LED:02**. Because Ferrier does not apply, the consent request was reviewed by the Supreme Court on the totality of the circumstances. Those circumstances demonstrated that the consent by the hosts was voluntary, the Thang Court rules.

2) Escapee Rule Not Adopted

Next, the Thang Court rejects the no-privacy-rights-for-escapees rationale used by the Court of Appeals to uphold the entry and search. (See the **LED** entry on the Court of Appeals' decision in the February 2001 **LED** at 16.) The Supreme Court explains:

> The State asserts that Thang was not entitled to an expectation of privacy. He was, after all, just a temporary guest in the Dietzen and Lambert apartment and could not have a reasonable expectation of privacy superior to that of his hosts. The State further argues that Thang had no right to be in the Spokane apartment at all; his only rightful location was in his cell, where he would have no right to privacy in his personal belongings. The Court of Appeals agreed with the State on this latter point. The Court of Appeals, relying on other jurisdictions, adopted the escapee rule to support Thang's lessened expectation of privacy, concluding that Thang had no right to be anywhere other than his place of commitment and was no more than a trespasser at the time of his arrest.
>
> [T]he Court of Appeals correctly observed that no Washington court has considered an escapee's expectation of privacy and therefore no Washington Court has adopted the escapee rule. We decline to do so in this case. Moreover, by applying ordinary constitutional principles, we arrive at the same conclusion; Thang had no reasonable expectation of privacy to the areas searched.

[Citations and footnotes omitted]

3) Guest May Not Object To Hosts' Consent To Entry To Arrest Him On An Arrest Warrant Or To Search Common Areas of Residence

Finally, the Thang Court explains as follows its view that Thang has no reasonable exception of

privacy in the areas searched:

> This Court has held that the subject of an arrest warrant has no greater protection in his host's residence than he would have at home. State v. Williams, 142 Wn.2d 17 (2000). **[December 00 LED:14]** "'[A]n arrest warrant founded on probable cause implicitly carries with it the limited authority to enter a dwelling in which the suspect lives when there is reason to believe the suspect is within.'" Moreover, Thang's hosts granted permission to enter their home.
>
> Fourth Amendment protections against unreasonable searches and seizures are personal. Thus, Thang must establish a personal right of privacy in order to challenge his arrest. A guest's expectation of privacy may be vitiated by consent of another resident. State v. Rodriguez, 65 Wn. App. 409 (1992). In Rodriguez, the defendant was staying with his mother, who gave the police permission to enter the apartment to look for him. The police found him in the bathroom. The court determined that the mother's consent was sufficient and the police lawfully arrested the defendant:
>
> > [S]ince he was only sharing the home, his expectation was not absolute. A host or third party who has dominion and control over the premises may consent to a search, whether it is for purposes of arrest or seizure of evidence. [Citing Rodriguez]
>
> When one party consents to a warrantless search but another who has equal use and control of the premises objects, the consent is invalid. State v. Leach, 113 Wn. 2d 735 (1989). Thang asserts that he had superior control because the police were seeking his possessions. However, Thang's socks were found in the communal garbage, and consent to search by a host is always effective against a guest within the common areas of the premises. We therefore conclude that Dietzen's and Lambert's consent to the search was sufficient to render it constitutional.

[Some citations omitted]

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BRIEF NOTE FROM THE WASHINGTON STATE SUPREME COURT

STATE'S "SURVEILLANCE LOCATION PRIVILEGE" ARGUMENT REJECTED -- In State v. Darden, 41 P.3d 1189 (2002), the Washington Supreme Court rules that there is no support for a "surveillance location privilege" in current Washington law. Seattle officers conducted a "see-pop" operation using a fixed, hidden surveillance post in a building and an arrest team or teams on the street. At trial, one arrestee-defendant sought to learn the location of the surveillance post when the surveilling officer testified to the "see" part of the "see-pop" operation. The trial court provided some protection for the surveillance location, and the Court of Appeals upheld that ruling. See **March 01 LED:20**.

Now, the State Supreme Court has held that there is nothing in current statutes, court rules, or common law that provides for protection of this relevant evidence. If the surveilling officer testifies, he or she must disclose the surveillance location, the Court holds.

Result: Reversal of King County Superior Court conviction of Clarence Darden for possession of controlled substances with intent to deliver.

LED EDITORIAL COMMENT: It appears to us that the Washington Legislature could adopt

legislation to provide a "surveillance location privilege."

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WASHINGTON STATE COURT OF APPEALS

MEDICAL MARIJUANA LAW GETS FIRST READING -- DEFENDANT FAILS TO MEET STANDARDS FOR 1) "VALID DOCUMENTATION" OR 2) "60-DAY SUPPLY"

State v. Shepherd, 41 P.3d 1235 (Div. III, 2002)

Facts and Proceedings below: (Excerpted from Court of Appeals opinion)

> Washington voters passed Initiative Measure No. 692 on November 3, 1998. Chapter 69.51A RCW. Mr. Shepherd, who also goes by Ocean Israel Shepherd, tried to comply with that Act and grow marijuana for his friend, John Wilson. As part of this process, Mr. Wilson designated Mr. Shepherd as his primary caregiver:
>
> > I am designating Ocean Israel Shepherd, also known as Arthur Camel Shepherd, as my primary caregiver under the terms and conditions of I-692.
>
> Mr. Wilson suffers from a variety of conditions including bipolar disorder and a debilitating spine condition. The spine condition also disables him from growing and maintaining his own marijuana supply. Although Mr. Shepherd is designated as Mr. Wilson's caregiver, his only contribution to Mr. Wilson's care is to raise and supply the marijuana, which is the source of Mr. Shepherd's current legal difficulties.
>
> Mr. Wilson is treated by Dr. Gregg Sharp. He provided Mr. Wilson with an "Authorization to Possess Marijuana for Medical Purposes in Washington State":
>
> > I have diagnosed and am treating the above named patient for a terminal illness or debilitating condition as defined in RCW 69.51A.010 (should the conditions be listed, a check list? I think not as it may be seen as violating physician-patient confidentiality).
> >
> > I have advised the above named patient about the potential risks and benefits of the medical use of marijuana. I have assessed the above named patient's medical history and medical condition. It is my medical opinion that the potential benefits of the medical use of marijuana may outweigh the health risks for this patient.
>
> A number of government agencies work together on joint marijuana eradication in northern Stevens County. As part of that program, they spotted Mr. Shepherd's marijuana grow. Police first seized 15 marijuana plants from Mr. Shepherd. Mr. Shepherd sued to recover the plants. He presented documentation from Dr. Sharp to support Mr. Wilson's need for the marijuana and Mr. Wilson's statement that Mr. Shepherd was the primary caregiver. Judge Larry Kristianson refused to return the plants. He concluded that the statement by Mr. Wilson's doctor was inadequate because it failed to set out the specific nature of Mr. Wilson's medical condition. Judge Kristianson also concluded that

Mr. Shepherd could not be Mr. Wilson's primary caregiver because primary caregiver status contemplated something more than merely supplying medical marijuana.

Following Judge Kristianson's determination and armed with the same documentation, Mr. Shepherd repeatedly went to both the Stevens County sheriff and the prosecuting attorney and declared that he was growing medical marijuana. Later the sheriff's office seized another 20 to 31 plants from Mr. Shepherd's property. None of the plants were mature enough at this time to use.

The State charged Mr. Shepherd by amended complaint with felony possession of marijuana. He waived his right to a jury trial. The lawyers then submitted the case to the court on stipulated facts. Judge Rebecca Baker found that Mr. Shepherd was Mr. Wilson's primary caregiver and satisfied the Act's requirements for a primary caregiver. But she also concluded that Mr. Shepherd failed to prove that he maintained only a 60-day supply.

Judge Baker also concluded that Dr. Sharp's statement of need was inadequate because it only specified that Mr. Wilson "*may* benefit from the medical use of marijuana", whereas the statute requires a statement from the doctor that "the potential benefits of the medical use of marijuana *would likely outweigh* the health risks," RCW 69.51A.010(5)(a) (emphasis added).

ISSUES AND RULINGS: 1) Did Shepherd establish that the person to whom Shepherd was "primary caregiver" had "valid documentation" for medical use of marijuana? (ANSWER: No) 2) Did Shepherd establish that the supply of marijuana was a 60-day supply? (ANSWER: No)

Result: Affirmance of Stevens County Superior Court conviction of Arthur C. Shepherd Jr., AKA Ocean Israel Shepherd, for manufacturing marijuana.

ANALYSIS: (Excerpted from Court of Appeals opinion)

Medical-use-of-marijuana act

In 1998, the citizens of Washington enacted the Medical Use of Marijuana Act by way of Initiative Measure No. 692. RCW 69.51A.005. [See summary in January 1999 **LED** at 21.] The Act is codified in chapter 69.51A RCW. The purpose of the Act is to allow patients with terminal or debilitating illnesses to use marijuana when authorized by their treating physician. RCW 69.51A.005. The Act also protects people who supply marijuana to such patients: "Persons who act as primary caregivers to such patients shall also not be found guilty of a crime under state law for assisting with the medical use of marijuana[.]" RCW 69.51A.005.

The Act provides an affirmative defense for patients and caregivers against Washington laws relating to marijuana:

> (1) . . . any designated primary caregiver who assists a qualifying patient in the medical use of marijuana, will be deemed to have established an affirmative defense to such charges by proof of his or her compliance with the requirements provided in this chapter. . . .
>
> . . . .
>
> (4) The designated primary caregiver shall:
>
> (a) Meet all criteria for status as a primary caregiver to a qualifying

patient;

(b) Possess, in combination with and as an agent for the qualifying patient, no more marijuana than is necessary for the patient's personal, medical use, not exceeding the amount necessary for a sixty-day supply;

(c) Present a copy of the qualifying patient's valid documentation required by this chapter, as well as evidence of designation to act as primary caregiver by the patient, to any law enforcement official requesting such information;

(d) Be prohibited from consuming marijuana obtained for the personal, medical use of the patient for whom the individual is acting as primary caregiver; and

(e) Be the primary caregiver to only one patient at any one time.

RCW 69.51A.040.

Issue 1: Valid documentation

The trial court found, and we agree, that Mr. Wilson satisfies the requirements of a "qualifying patient." RCW 69.51A.010(3). That is, someone who has been diagnosed with a debilitating medical condition, has been advised of the risks and benefits of the use of marijuana, and has been advised by the physician that he or she may benefit from the medical use of marijuana.

But the Act requires more. It also requires "valid documentation" to prove the affirmative defense. RCW 69.51A.040(4)(c). And the Act is very specific in the elements required for valid documentation. It requires (1) a statement, (2) signed by a qualifying patient's physician (or a copy of the qualifying patient's pertinent medical records) which states, (3) that in the physician's professional opinion, (4) the potential benefits of the medical use of marijuana *would likely outweigh* the health risks for a particular qualifying patient. RCW 69.51A.010(5)(a). It is not enough, as Dr. Sharp did here, to simply say that the potential benefits of the medical use of marijuana *may* outweigh the health risks for a particular patient.

[T]he required medical opinion is that one scientific consideration (the "potential benefits of the medical use of marijuana") outweighs another scientific consideration ("the health risks for a particular qualifying patient"). RCW 69.51A.010(5)(a). The statute requires a stronger showing on necessity than simply "may."

The showing by Mr. Shepherd (may) does not satisfy the requirements for the affirmative defense (would likely).

Issue 2: Sixty-day supply

The Act prohibits the primary caregiver from possessing marijuana in excess of that "necessary for the patient's personal, medical use, and not exceeding the amount necessary for a sixty-day supply." RCW 69.51A.040(4)(b). The only showing by Mr. Shepherd in support of this requirement is a report by the Public Safety Committee of the Oakland City Council, dated June 23, 1998. That document references a scientific, analytical method for calculating actual usable amount. And while, no doubt, the formula set out in the Oakland City Council's

> report might well lead to a reasonably accurate statement of the amount of marijuana required, it is only part of the equation. The rest of the variables are missing.
>
> There is no evidence stipulated to in this record on which we could find the amount of marijuana Mr. Wilson needs to alleviate or mitigate his medical problems. In fact there is no statement in Dr. Sharp's note identifying the specific nature of his disease process. And while nothing in the Act requires the doctor to disclose the patient's particular illness, there must, nonetheless, be some statement as to how much he or she needs. Without that statement, there is no way for us to decide whether the amount Mr. Shepherd grew for Mr. Wilson's benefit fell within the 60-day limitation imposed by the Act.
>
> This problem is further complicated by the fact that Mr. Wilson apparently eats his marijuana rather than smokes it. Again, that fact alone will influence the amount of marijuana necessary to manage his condition whether its use is curative or simply palliative. Mr. Shepherd's showing is then insufficient to meet the requirements of the Act.

[Some citations omitted]

FORFEITURE HEARING WAS TIMELY, BUT $58,300 CASH IN GIRLFRIEND'S CAR NOT SUBJECT TO FORFEITURE UNDER RCW 69.50.505 BECAUSE THERE WAS NO PROBABLE CAUSE AS TO ILLEGAL-DRUGS CONNECTION (DRUG-SNIFFING DOG'S ALERT TO CASH MUST BE DISCOUNTED ON THIS RECORD)

Valerio v. Lacey Police Department, 110 Wn. App. 163 (Div. II, 2002)

Facts and Proceedings below:

After police arrested Mark Valerio for assaulting his girlfriend, the girlfriend's mother and brother found $58,300 in cash in a safe belonging to Valerio. The mother and brother turned the cash over to the Lacey Police Department, which investigated and then instituted forfeiture proceedings on the cash under RCW 69.50.505.

Valerio successfully moved the forfeiture hearing to superior court. This procedural step resulted in the hearings being held more than 90 days after he made his claim of ownership. At hearing, the City presented "probable cause" evidence that may be briefly summarized as follows: 1) claimant's explanations for how he came by the money did not appear credible; 2) a drug-sniffing police dog alerted to the odor of illegal drugs on the cash; and 3) claimant had previously mentioned to his girlfriend that he might come into large amounts of money through a drug-related business. The trial court ordered forfeiture of the cash to the City.

ISSUES AND RULINGS: 1) Was the hearing held in a timely fashion under RCW 69.50.505? (ANSWER: Yes); 2) Did the City establish probable cause for forfeiture of the cash? (ANSWER: No)

Result: Reversal of Thurston County Superior Court order of forfeiture.

ANALYSIS:

1) Timeliness of hearing

After extended discussion of Washington precedents, the Court of Appeals concludes that the City satisfied timeliness requirements under RCW 69.50.505 by notifying claimant of its intent to institute proceedings to forfeit the cash within 90 days of receiving his claims of ownership. Valerio's complaints about delay in the holding of a forfeiture hearing were not valid, as he himself caused most of the delay by moving the proceedings to Superior Court.

2) Probable cause

The Valerio Court analyzes the probable cause question as follows:

> We compare the facts here with Division One's affirmance of a vehicle forfeiture in City of Lynnwood, 61 Wn. App. 505 (1991). In that case, there was ample physical and testimonial evidence that the defendant, Heeter, was heavily involved in the manufacture and sale of methamphetamine and that he used his vehicle for transport in connection with this illegal business. Not only did the police have a search warrant for Heeter's residence, where they seized evidence of his ongoing drug business, but also both his residence and his vehicle reeked of a "cat urine" smell associated with methamphetamine manufacture.
>
> In contrast, here, there is no clear evidence that Valerio was, or was about to become, involved in illegal drug sales. Rather, his estranged girlfriend's speculation that he might be planning to engage in drug-related activity was based on a vague conversation she had with Valerio; she had no actual knowledge of his involvement with any drug business, past, present, or future. Moreover, unlike Heeter, Valerio was not known to use, to manufacture, or to sell illegal drugs. And he had no criminal record.
>
> Furthermore, [the estranged girlfriend's] testimony tended to support Valerio's explanation that the money was derived from legal sources. The record does not show that illegal drug activities were the reason that the cash was new, uncirculated, and of the same denomination. Although the trial court believed that the money's condition indicated drug dealing, the record does not show why the money's condition was not also consistent with gambling, in which Valerio frequently engaged. The State's evidence, that Valerio's gambling winnings and losses or income and savings could not have produced this *amount* of cash, did not establish probable cause to believe that the money was, therefore, the product of an illegal drug business.
>
> Aside from [the estranged girlfriend's] speculation, the only evidence of a possible connection between the money and illegal drugs was the drug-sniffing dog's "opinion" that the money had absorbed the odor of illegal drugs. Again, however, the dog's "testimony" did not and could not indicate how the odor transferred to the money. Thus, the dog-sniff evidence did not establish probable cause for the officers to believe that the money had been used in connection with the drug business because: (1) the money had been stored for four days in a City police department safe, where the money could have absorbed controlled substances odors from other evidence stored in the same safe; (2) according to the dog's handler, the dog could have reacted to such absorbed odors; *[Court's footnote: In contrast, in* U.S. v. U.S. Currency, $ 30,060*, 39 F.3d 1039 (9th Cir. 1994) there was evidence that unless the money had recently been in the*

proximity of cocaine, the detection dog would not have alerted to it.] (3) there was no evidence that this dog had been trained to differentiate between odors absorbed from contact with drugs as opposed to odors absorbed from other sources; *[Court's footnote: In contrast, in United States v. $22,474.00 in U.S. Currency, 246 F.3d 1212 (9th Cir. 2001) the sniffer-dog who alerted to the claimant's currency was trained* not *alert to cocaine residue found on currency in general circulation. Rather, the dog was trained to, and would only, alert to the odor of a chemical by-product of cocaine called methylbenzoate. Moreover, the government provided evidence that unless the currency the defendant was carrying had recently been in the proximity of cocaine, the detection dog would not have alerted to it. The claimant had also previously been convicted of trafficking cocaine. The court found a sufficient nexus linking the incriminating circumstances to illegal drugs.]* (4) there are trace amounts of controlled substances on virtually all circulated U.S. currency; and (5) the State crime lab could not confirm the presence of traces of illegal drugs on the money.

Courts have not found probable cause to support forfeiture in cases with even clearer drug-related circumstances than those here. For example, in United States v. $ 49,576.00 in U.S. Currency, 116 F.3d 425 (9th Cir. 1997), a drug-detection dog alerted to currency, the claimant fit a drug-courier profile, he gave evasive and dishonest answers to officers' questions, and he had once been detained, but not charged, in connection with a drug-related crime. Nonetheless, the Ninth Circuit held that the circumstances established probable cause to believe only that the claimant was involved in *some illegal activity*; but there was no evidence connecting that activity with narcotics and, thus, no basis for forfeiture under the drug statute. The drug-sniffing dog's alert in $49,576.00 was not sufficient to support forfeiture, even when coupled with the claimant's drug-courier profile and other evidence.

Here, however, Valerio had no known prior involvement with illegal drugs. Moreover, he explained that his intent, when conversing earlier with [the estranged girlfriend], had been to start a legal marijuana business if legalized by a proposed voter-initiative. The record does not show that the dog sniffed actual traces of illegal drugs on the seized money (which presumably would have indicated prior contact between the money and drugs). Rather the record shows only that the dog alerted to mere odors, which the money could have absorbed from sources other than contact with drugs. Further, there was no independent evidence indicating that the money could have come into contact with illegal drugs while in Valerio's possession.

Here, there was but mere suspicion, not a reasonable, factual basis for belief that the money had been used, or would be used in drug-dealing. Moreover, there apparently was insufficient probable cause to arrest Valerio for illegal drug dealing or possession. Accordingly, we hold that there was insufficient evidence to support the forfeiture.

[Some citations and footnotes omitted]

ALLOW SEARCH FOR "METHAMPHETAMINE" WAS OK; ALSO, COURT REJECTS DEFENDANTS' CHALLENGES BASED ON SCOPE-OF-SEARCH, PRE-WARRANT ENTRY OF PROPERTY, AND PURPORTED "KNOCK-AND-TALK"

State v. Dodson, Cardwell and Harnden, 110 Wn. App. 112 (Div. III, 2002)

Facts and Proceedings below: (Excerpted from Court of Appeals opinion)

> On the evening of September 8, 2000, [a detective] and two other officers drove to Mr. Harnden's rural address near Kettle Falls. The officers were looking for a man named Charles Evans, a suspect in the recent theft of a pickup truck and a three-wheeler off-road vehicle. Earlier that day, a park ranger had reported that she had seen a man matching Mr. Evans's description near the Harnden property. She and an officer had found the stolen pickup nearby and had discovered three-wheeler tracks running from park service property to the Harnden land. On the basis of that information, the police decided to investigate the Harnden property.
>
> The three officers approached Mr. Harnden's house. One knocked on the door while the other two stationed themselves so they could see if anyone ran. Eventually Mr. Harnden came to the door. When asked if Mr. Evans lived there, Mr. Harnden replied, "No, I ran him off." About this time, one of the officers spotted a three-wheeler on the property. Mr. Harnden explained that Mr. Evans had brought it there a few days earlier. The officers asked if they could look around the property to see if Mr. Evans had returned. In response, Mr. Harnden said to wait while he got his jacket and he would accompany them.
>
> Several vehicles and recreational trailers were parked on all sides of the residence. The officers first looked in a nearby travel trailer, and finding no one, moved to another travel trailer, which Mr. Harnden called a guest house. As soon as the officers opened the door of this trailer, they were confronted with a strong chemical odor and equipment they recognized as associated with the manufacture of methamphetamine. [The detective] advised Mr. Harnden of his Miranda rights. Mr. Harnden then stated that he knew nothing about the meth lab, and that a man named Vince Kitchen had recently occupied the trailer.
>
> [The detective] directed the other officers to secure the premises while he went to apply for a search warrant. By the time he reached the police station and called a superior court judge, it was 5:06 A.M. on September 9. The call was recorded and later transcribed. [The detective] described the night's events to the judge and read from a standard form listing the types of evidence he expected to find on the premises, including methamphetamine, documents related to the manufacture and distribution of the drug, and documents indicating who occupied the premises. The judge stated that he found probable cause to search the house, garage, and all vehicles on the premises for evidence of a methamphetamine operation and for stolen property. He directed [the detective] to scribe the judge's name on the warrant, to leave a copy of the warrant at the premises, and to return the warrant when possible. [The detective] took a search warrant form from a desk drawer, wrote in the address of the premises and the property to be searched, and signed the judge's name. *[The detective did not enter the time for execution and return of the warrant -- **LED** Ed.]*
>
> When he returned to the scene and began reading the warrant to Mr. Harnden,

[the detective] realized that the typewritten warrant form referred to a search for marijuana and did not mention methamphetamine:

> Seize the following property: All evidence and fruits of the crime of manufacturing, delivering or possessing controlled substances, and all other things by means of which the crime of manufacturing, delivering, or possessing a controlled substance, to wit: marijuana, has or reasonably appears about to be committed, including drug paraphernalia as described in RCW 69.50.102, and/or any weaponry used in protection of said illegal activity, as well as papers, books, or documents identifying the occupants of the premises.

[The detective] later testified that he corrected the executed warrant to indicate methamphetamine, but that he failed to correct the copy of the warrant in the court file, which contains the original "to wit: marijuana" language.

After serving the amended warrant, the officers searched the premises, discovering evidence of a meth lab, methamphetamine, weapons, marijuana, drug paraphernalia, and stolen property. Mr. Harnden and two other occupants of the residence, David Dodson and Kyann Cardwell, were arrested and charged with various crimes related to possession, manufacture, and distribution of methamphetamine and possession of stolen property. All three defendants moved to suppress the evidence in a consolidated hearing, arguing that the officers (1) had no probable cause for the initial entry onto Mr. Harnden's property, (2) failed to follow proper "knock and talk" procedure, (3) entered the guest house trailer without consent or a warrant, and (4) exceeded the scope of the telephonic warrant because the warrant was not adequately specific and did not cover the property where the meth lab was found.

The trial court rejected all arguments except for the challenge to the validity of the warrant. In that regard, the trial court found that the telephonic warrant was not sufficiently specific regarding the time for service or the form of the warrant, and was never actually approved as to its final form. Because the issuing judge did not dictate the terms of the warrant or review it as written by [the detective], the trial court found that it was, in effect, a generalized warrant, and invalid on that basis. Additionally, the trial court noted that the issuing judge had no basis to authorize a search for marijuana. For all these reasons, the trial court concluded the search was warrantless and its fruits must be suppressed. All charges against the defendants were dismissed and this appeal (and cross-appeal) followed.

ISSUE AND RULING: 1) Did the trial court err in ruling the warrant fatally flawed on grounds that it identified the wrong object of the search and failed to specify the time for execution and return? (ANSWER: Yes); 2) Did the officers' search exceed the scope of search authorized under the warrant? (ANSWER: No); 3) Did officers violate Harnden's constitutional privacy rights when they initially went to his home in the pre-warrant contact in search of a theft suspect who their investigation suggested might be on the premises? (ANSWER: No, the route they followed to Harnden's front door was impliedly open to the public); 4) Was the officers' initial pre-warrant contact with Harnden a knock-and-talk consent procedure calling for special warnings? (ANSWER: No, going to the property to ask for help in finding a suspect was not "knock-and-talk.")

Result: Reversal of Stevens County Superior Court suppression order; remand for possible trials of David Daniel Dodson, Kyann Marie Cardwell (aka Kyann Marie Peterson) and Monty Neal Harnden.

ANALYSIS:

1) Validity of corrected warrant

> The transcribed affidavit in the current case unequivocally supports probable cause to search for evidence of methamphetamine production, delivery, or possession. The issuing judge carefully established the geographical limits of the search (six acres of property and all buildings and vehicles found there), the crime investigated (involving methamphetamine), and what the officers expected to find related to that crime. On the basis of that information, the judge authorized his signature on a search warrant to seize evidence of methamphetamine production, delivery, and possession. That the original warrant form mistakenly indicated the search was for marijuana rather than methamphetamine does not implicate a lack of probable cause, but a clerical error. Whether that error was harmful depends on its effect.
>
> Besides limiting the executing officer's discretion to search and seize, the purpose of a warrant is also to inform the person subject to the search what items the officer may seize. [The detective]'s warrant informed Mr. Harnden that the officers would seize evidence of the crime of manufacturing, delivering, or possessing controlled substances. Additionally, when the detective noticed that the warrant described a particular controlled substance - marijuana - he informed Mr. Harnden that the warrant was supposed to say methamphetamine instead. [The detective] was authorized by the issuing judge, based on probable cause, to search for methamphetamine. Accordingly, the detective's amendment to the search warrant, while tardy, was valid under these circumstances.
>
> Although we agree with the trial court that the better practice is for the officer to read the search warrant into the record so that the issuing magistrate knows exactly what he or she has authorized, CrR 2.3(c) does not require this procedure. Federal Rule of Criminal Procedure 41 requires that both the affidavit and the search warrant be made of record. Our Supreme Court's failure to adopt the same rule in CrR 2.3(c) indicates that the crucial test of a search warrant is its basis in probable cause, not its hypertechnical adherence to a particular form. If the warrant describes with particularity the things to be seized, providing adequate notice to the person subject to the search, corrections of clerical mistakes in the warrant should not invalidate it, as long as the corrections comply with the issuing court's original authorization. See State v. Chambers, 88 Wn. App. 640 (1997) **Jan 98 LED:03** (requiring use of word "marijuana" instead of phrase "controlled substance" would elevate form over substantive enhanced privacy protection). Such was the case here. Accordingly, the amended search warrant was valid and the trial court erred in suppressing the evidence.
>
> The trial court's additional conclusion that the warrant was invalid because it failed to specify the time for its execution and return does not withstand scrutiny. The rules for execution and return of a warrant are generally ministerial in nature and will not invalidate a warrant absent a showing of prejudice to the defendant. None of the defendants has shown or argued that the warrant's failure to specify the time of its execution and return prejudiced him or her in any way.

Consequently, suppression of the evidence on this basis was not warranted.

2) Scope of search under warrant

[Mr. Harnden argues] that the scope of the search warrant was circumscribed by the address of his residence. He contends the trailer meth lab was found on a separate parcel, owned by him, but not located on the parcel described by the search warrant.

The sufficiency of a search warrant's description of the place to be searched is determined by examining whether the place is described with sufficient particularity to enable the executing officer to find and identify the location without mistake. The technical accuracy of the address is not the primary concern. Instead, the key is whether a mistaken search would be likely to occur. In this case the search warrant gave the address of Mr. Harnden's residence on one of three adjacent parcels he owned. [The detective] had no difficulty determining the correct premises to be searched. Mr. Harnden accompanied him on the initial, warrantless investigation of the trailers on the property, and did not indicate that the investigation extended beyond his property. Indeed, it did not. The transcribed search warrant affidavit accurately describes the meth lab trailer as sitting about 40 yards northeast of the Harnden residence. Considering the record and [the detective]'s role in obtaining the search warrant, the place to be searched was sufficiently described. There was no likelihood that any other property would have been mistakenly searched.

3) Lawfulness of initial warrantless entry of property

Mr. Harnden contends the initial police entry onto his property violated his state and federal constitutional rights because the police had no probable cause to believe Mr. Evans had committed a crime or was on the property, and because the officers ignored the "no trespassing" signs.

If police detect something while lawfully present on areas of impliedly open curtilage, that detection does not constitute a search under Constitution article I, section 7, or the Fourth Amendment. Open curtilage is that area apparently open to the public, such as the driveway, the walkway, or any access route leading to the residence. "No trespassing" signs are not dispositive on the issue of privacy and are only factors to be considered along with other manifestations of privacy. Further, an officer does not need probable cause to enter open curtilage on legitimate business.

The trial court found that a man missing several fingers and wearing rings on all his intact fingers was discovered near a pickup truck reported stolen. Mr. Evans, who was a suspect in the theft of the truck and three-wheeler, matched this physical description. He also had an outstanding felony warrant. Three-wheeler tracks were found running from the stolen truck to Mr. Harnden's property. On the basis of this information, police officers had a legitimate reason to drive up the road to Mr. Harnden's residence to attempt to find Mr. Evans. The trial court further found that the officers did not see a "no trespassing" sign and that there were no gates or chains across the road, which served several residents. The court additionally found that Mr. Harnden repaired vehicles on his premises and that vehicles used the route to his property for business purposes Because the police did not ignore

any manifestations of privacy and had legitimate business on the Harnden property, their entry on the property was not intrusive under state and federal constitutional guidelines.

4) Voluntariness of consent (this was not a "knock-and-talk")

Mr. Harnden next contends the police conducted a "knock and talk" when they questioned him at his residence. Citing State v. Ferrier, 136 Wn. 2d 103 (1998) **[Oct 98 LED:02]**, he argues that his consent to search was not voluntary because he was not informed that he had the right to refuse.

A knock and talk is a police procedure whereby police seek permission to enter a residence with the intent to obtain consent to search for evidence or contraband. To mitigate the coercive effect of a knock and talk, the officers must warn the residents of their right to refuse consent. In this case, however, the officers were not conducting a knock and talk. Their investigation was not inherently coercive because they were not seeking evidence to incriminate Mr. Harnden, but only looking for information on the whereabouts of Mr. Evans and the three-wheeler he was suspected of stealing. In fact, the officers did not even seek consent to search Mr. Harnden's residence at that point; they merely asked if they could check out the other buildings and trailers on the property to see if Mr. Evans had returned. Accordingly, Mr. Harnden's consent to search the vehicles on his property was voluntary.

[Some citations omitted; order of analysis revised]

DIVISION ONE ATTEMPTS TO UNTANGLE "AUTOMATIC STANDING" CASES; COURT ALSO RULES AGAINST STATE ON IMPOUND, COMMUNITY CARETAKING, CONSENT

State v. Kypreos, ___ Wn. App. ___, 39 P.3d 371 (Div. I, 2002)

Facts and Proceedings below: (Excerpted from Court of Appeals opinion)

Snohomish County Sheriff's deputies, who were looking for a stolen utility trailer and a woman named Stephanie Smithson who they believed was involved in drug activity, went to the property of Albert Odegard. They spoke with Odegard and his daughter Jamie about Smithson and the missing utility trailer.

While there, the deputies noticed a fifth wheel trailer and radioed in its description. They were advised that the registered owner had reported the trailer stolen. She reported that the trailer had served as her residence, and specifically requested that the trailer not be impounded. The deputies learned that Jamie had granted Smithson permission to park the trailer on her father's property.

Odegard told the deputies that Smithson and her boyfriend Kypreos had been living in the trailer. He said he wanted the trailer and all of the people associated with it to be removed from the property because of alleged drug activity associated with it. Jamie explained that Smithson had told her that she was buying the trailer, but did not have title yet because it was being mailed to her.

> Upon learning that the trailer was stolen, one of the deputies knocked on the door of the trailer and entered. When he did not find anyone in the living area of the trailer, he drew his gun and opened the sliding door leading to the sleeping area. There, he discovered Kypreos in the bed. Once Kypreos was removed from the trailer and placed in handcuffs, the deputy searched the sleeping quarters and discovered a loaded .45 caliber automatic handgun in the bed.
>
> Kypreos expressed surprise when he was told that the trailer was stolen. He stated that he had seen the bill of sale, and that it could not possibly be stolen. Kypreos was advised to leave the premises. The trailer was left on Odegard's property. Kypreos was subsequently charged with unlawful possession of the handgun.
>
> Kypreos moved to suppress the evidence of the handgun, but the trial court concluded that Kypreos did not have standing to challenge the search. Kypreos was then found guilty at a stipulated trial of unlawful possession of a firearm in the first degree.

ISSUES AND RULINGS: 1) Does Kypreos have automatic standing to challenge the search of the trailer? (ANSWER: Maybe; case remanded to determine a fact question on this issue); 2) 3) 4) Assuming Kypreos has standing, was the search a lawful impound-inventory, a lawful community-caretaking search, or a lawful consent search? (ANSWER: No, as to each)

Result: Reversal of Snohomish County Superior Court conviction of Seth Kypreos for first degree possession of a firearm; case remanded for hearing on "automatic standing" issue.

ANALYSIS:

1) Automatic Standing

The U.S. Supreme Court ruled over 20 years ago that the Fourth Amendment of the U.S. Constitution does not provide for "automatic standing." If a person's own privacy rights were not violated by an unlawful government search, the person cannot challenge the search.

The Kypreos Court devotes most of its opinion to whether and the extent to which article 1, section 7 of Washington's state constitution requires that persons charged with possessory crimes be granted "automatic standing" to challenge searches that invade areas where they do not have a protected privacy interest. After extended discussion of a tangled mess of over 20 years of confusing and apparently conflicting Washington court decisions, the Kypreos Court reaches the conclusion that "automatic standing" is presently the law of Washington, and that the current rule is as follows:

> [A]utomatic standing applies if: (1) the offense with which the defendant is charged involves possession as an essential element of the offense; (2) the defendant was in possession of the contraband at the time of the contested search or seizure; (3) the contraband bears a direct relationship to the search sought to be contested; and (4) the defendant reasonably believed he was legitimately on the premises where the search occurred.

The Court explains the fourth element of its articulation of the "automatic standing" test. The question on that element is not whether a person actually has a legitimate property interest, but whether the person has a reasonable belief in that regard:

> [T]he courts need only determine whether the defendant reasonably believed he was legitimately in the area searched. Thus, a burglar would not reasonably believe he was legitimately on the premises, and would lack standing. The same is true for someone who was a passenger in a stolen car and knew or should have known that the vehicle was stolen. However, a passenger who reasonably believed the person giving him the ride was the true owner would have standing.

All but the fourth element of the Court's test are clearly met in this case. However, a fact question remains on the fourth element. Hence, the Kypreos Court concludes that, unless the search otherwise met search law rules, the trial court must hold further hearings to determine whether defendant reasonably believed he was legitimately in the trailer when the search occurred.

2) 3) 4) Not impound, not "community caretaking," and not consent

The Court concludes its opinion by rejecting in fairly summary fashion the State's three alternative arguments attempting to justify the search: 1) the search was not a lawful impound-inventory of a vehicle because: a) no "impound" in fact occurred, and b) the parked, unattached, residential trailer was not a vehicle or otherwise subject to impound; 2) the search was not a "community caretaking" search because the search had a criminal investigatory purpose and did not appear to be necessary for any non-criminal purposes; and 3) the owner's stolen-trailer report did not impliedly consent to the search of the trailer, in part because she expressly instructed police in her report not to impound the trailer when they found it.

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NEXT MONTH

The June 2002 LED will include Part Two of our Washington Legislative Update. We will also address: (1) the U.S. Supreme Court's March 26, 2002 decision in H.U.D. v. Rucker, 122 S.Ct. 1230 (2002) (upholding a federal H.U.D. regulation requiring that leases for public housing authorize eviction of a tenant based on drug-related activity by members of the tenant's household, by the tenant's guests, or by any person under the tenant's control, regardless of whether the tenant knew or should have known about that activity); and (2) the Washington Supreme Court's April 11, 2002 unanimous decision in State v. Duncan, 2002 WL 534540 (holding that the rule of Terry v. Ohio, which permits investigatory seizures for crimes and for non-criminal traffic infractions based on mere reasonable suspicion, does not apply to non-traffic civil infractions, and that a seizure for a non-traffic civil infraction must be based on probable cause that the civil infraction is occurring in the presence of the officer; hence, the Duncan Court has ruled that officers were not justified in making an investigatory seizure of a suspect based on their mere suspicion that he was committing the decriminalized offense of an open container violation -- suspect with beer on his breath was observed along with others at a bus stop shelter near a cold, half-full bottle of beer).

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ORDER FORMS FOR SELECTED RCW PROVISIONS

Order forms for 2001 selected RCW provisions of interest to law enforcement are available on the Criminal Justice Training Commission website on the "Professional Development" page. The direct link to the order form is [http://www.wa.gov/cjt/forms/rcwform.txt].

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INTERNET ACCESS TO COURT RULES & DECISIONS, TO RCW'S, AND TO WAC RULES

The Washington Office of the Administrator for the Courts maintains a web site with appellate court information, including recent court opinions by the Court of Appeals and State Supreme Court. The address is [http//:www.courts.wa.gov/]. Decisions issued in the preceding 90 days may be accessed by entering search terms, and decisions issued in the preceding 14 days may be more simply accessed through a separate link clearly designated. A new website at [http://legalwa.org/] includes Washington State Supreme Court opinions from 1969 to the present; this new site also includes links to the full text of the RCW, WAC, and 70 Washington city and county municipal codes. Washington Rules of Court (including rules for appellate courts, superior courts, and courts of limited jurisdiction) are accessible via links on the Courts' website or by going directly to [http://www.courts.wa.gov/rules].

Many United States Supreme Court opinions can be accessed at [http://supct.law.cornell.edu/supct]. This web site contains all U.S. Supreme Court opinions issued since 1990 and many significant opinions of the Court issued before 1990.

Easy access to relatively current Washington state agency administrative rules (including DOL rules in Title 308 WAC, WSP equipment rules at Title 204 WAC and State Toxicologist rules at WAC 448-15), as well as all RCW's current through January 2002, is at [http://slc.leg.wa.gov/]. Information about bills filed in 2002 Washington Legislature is at the same address -- look under "Washington State Legislature," "bill info," "house bill information/senate bill information," and use bill numbers to access information. Access to the "Washington State Register" for the most recent WAC amendments is at [http://slc.leg.wa.gov/wsr/register.htm]. In addition, a wide range of state government information can be accessed at [http://access.wa.gov]. The address for the Criminal Justice Training Commission's web site is [http://www.cjtc.state.wa.us], while the address for the Attorney General's Office web site is [http://www/wa/ago].

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The Law Enforcement Digest is co-edited by Senior Counsel John Wasberg and Assistant Attorney General Shannon Inglis, both of the Washington Attorney General's Office. Questions and comments regarding the content of the **LED** should be directed to Mr. Wasberg at (206) 464-6039; Fax (206) 587-4290; E Mail [johnw1@atg.wa.gov]. Questions regarding the distribution list or delivery of the **LED** should be directed to Darlene Tangedahl of the Criminal Justice Training Commission (CJTC) at (206) 835-7337; Fax (206) 439-3752; E mail [dtangedahl@cjtc.state.wa.us]. **LED** editorial commentary and analysis of statutes and court decisions express the thinking of the writers and do not necessarily reflect the views of the Office of the Attorney General or the CJTC. The **LED** is published as a research source only. The **LED** does not purport to furnish legal advice. **LED**'s from January 1992 forward are available via a link on the Commission's Internet Home Page at: [http://www.cjtc.state.wa.us].